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# HOUSE BILL No. 1204

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47.

**Synopsis:** Handguns. Requires a person to complete a handgun safety course before receiving a handgun license. Amends the definition of "dealer" as it relates to the sale of handguns. Requires a handgun dealer to wait seven business days after obtaining background information from a prospective purchaser before selling, renting, trading, or transferring a handgun to the purchaser. Prohibits a person from obtaining more than two handguns during a calendar month.

**Effective:** July 1, 2005.

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**Smith V**

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January 6, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1204

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-47-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person desiring a license to carry a handgun ~~shall~~ **must**:

(1) apply:

(~~1~~) (A) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;

(~~2~~) (B) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or

(~~3~~) (C) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment; **and**

(2) **provide evidence that the person has successfully**



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1           **completed a handgun safety training course conducted under**  
 2           **standards established by the superintendent.**

3           (b) The law enforcement agency which accepts an application for a  
 4 handgun license shall collect a ten dollar (\$10) application fee, five  
 5 dollars (\$5) of which shall be refunded if the license is not issued.  
 6 Except as provided in subsection (h), the fee shall be:

7           (1) deposited into the law enforcement agency's firearms training  
 8 fund or other appropriate training activities fund; and

9           (2) used by the agency for the purpose of:

10           (A) training law enforcement officers in the proper use of  
 11 firearms or other law enforcement duties; or

12           (B) purchasing for the law enforcement officers employed by  
 13 the law enforcement agency firearms, ~~or~~ firearm related  
 14 equipment, or both.

15           The state board of accounts shall establish rules for the proper  
 16 accounting and expenditure of funds collected under this subsection.

17           (c) The officer to whom the application is made shall ascertain the  
 18 applicant's name, full address, length of residence in the community,  
 19 whether the applicant's residence is located within the limits of any city  
 20 or town, the applicant's occupation, place of business or employment,  
 21 criminal record, if any, and convictions (minor traffic offenses  
 22 excepted), age, race, sex, nationality, date of birth, citizenship, height,  
 23 weight, build, color of hair, color of eyes, scars and marks, whether the  
 24 applicant has previously held an Indiana license to carry a handgun  
 25 and, if so, the serial number of the license and year issued, whether the  
 26 applicant's license has ever been suspended or revoked, and if so, the  
 27 year and reason for the suspension or revocation, and the applicant's  
 28 reason for desiring a license. The officer to whom the application is  
 29 made shall conduct an investigation into the applicant's official records  
 30 and verify thereby the applicant's character and reputation, and shall in  
 31 addition verify for accuracy the information contained in the  
 32 application, and shall forward this information together with ~~his~~ **the**  
 33 **officer's** recommendation for approval or disapproval and one (1) set  
 34 of legible and classifiable fingerprints of the applicant to the  
 35 superintendent.

36           (d) The superintendent may make whatever further investigation the  
 37 superintendent deems necessary. Whenever disapproval is  
 38 recommended, the officer to whom the application is made shall  
 39 provide the superintendent and the applicant with the officer's complete  
 40 and specific reasons, in writing, for the recommendation of  
 41 disapproval.

42           (e) If it appears to the superintendent that the applicant has a proper

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reason for carrying a handgun and is of good character and reputation and a proper person to be so licensed, the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and

(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

(1) has been convicted of a felony;

(2) is under eighteen (18) years of age;

(3) is under twenty-three (23) years of age, if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or

(4) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

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In the case of an arrest under subdivision (4), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

(1) changes the person's name; or

(2) changes the person's address;

the person shall, not later than sixty (60) days after the date of the change, notify the superintendent, in writing, of the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

SECTION 2. IC 35-47-2.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not apply to the following:

(1) Transactions between persons who are licensed as firearms importers or collectors or firearms manufacturers or dealers under 18 U.S.C. 923.

(2) Purchases by or sales to a law enforcement officer or agent of the United States, the state, or a county or local government.

(3) Indiana residents licensed to carry handguns under IC 35-47-2-3, **except as provided in section 11.3 of this chapter.**

SECTION 3. IC 35-47-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "dealer" includes any person:

**(1) licensed under 18 U.S.C. 923; or**

**(2) who sells, rents, trades, or transfers a handgun to another person at a gun show.**

SECTION 4. IC 35-47-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A dealer may not sell, rent, trade, or transfer from the dealer's inventory a handgun to a person until the dealer has done all of the following:

(1) Obtained from the prospective purchaser written consent to a criminal history check, as specified in section 3 of this chapter.

(2) Provided the state police department with the prospective purchaser's name, birth date, gender, race, Social Security

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number, and any other identification required of the prospective purchaser.

(3) Requested and received criminal history information from the state police department by means of:

(A) a telephone call; or

(B) other electronic means.

**(4) Waited at least seven (7) business days after the date the dealer provided the state police department with the information required by subdivision (2).**

SECTION 5. IC 35-47-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The state police department shall provide its response to a requesting dealer under section 6 of this chapter during the dealer's call or by return call without delay.

(b) If a criminal history check indicates that a prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the division of mental health **and addiction**, the state police department has ~~until the end of the next seven (7) business day of the state police department~~ **days** to advise the dealer that the records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

(c) If a dealer:

(1) is not advised of a prohibition **by the state police department** before the end of ~~the next seven (7) business day of the state police department;~~ **days as described in subsection (b) and section 4(4) of this chapter;** and

(2) has fulfilled the requirements of section 4 of this chapter; the dealer may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

(d) ~~In case of electronic failure or other circumstances beyond the control of the state police department; the dealer shall be advised immediately of the reason for the delay and be given an estimate of the length of the delay. However, after a notification under this subsection; the state police department shall inform the requesting dealer whether state police department records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law;~~

~~(1) by the end of the next business day of the state police department following correction of the problem that caused the delay; or~~

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1 (2) within three (3) business days of the state police department;  
2 whichever time limit occurs earlier.

3 (e) A dealer that fulfills the requirements of section 4 of this chapter  
4 and is told by the state police department that a response will not be  
5 available under subsection (d) may immediately complete the sale or  
6 transfer and may not be considered in violation of this chapter with  
7 respect to the sale or transfer.

8 SECTION 6. IC 35-47-2.5-11.3 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2005]: **Sec. 11.3. (a) This section applies to**  
11 **Indiana residents licensed to carry handguns under IC 35-47-2-3.**

12 **(b) A person may not purchase or otherwise obtain more than**  
13 **two (2) handguns during a calendar month.**

14 **(c) A person who knowingly or intentionally violates this section**  
15 **commits a Class A misdemeanor.**

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